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## OFFICE OF THE CITY CLERK

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# REPORT

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### REPORT TO THE HONORABLE MAYOR AND CITY COUNCIL

DATE: June 12, 2000

REPORT NO.: 00-03

SUBJECT: PROPOSED AMENDMENTS TO SAN DIEGO MUNICIPAL CODE  
RELATED TO ELECTIONS, CHAPTER 2, ARTICLE 7

#### ISSUE

In 1999 the City Council approved major amendments to the City's Elections Code. In administering the revised code during the past year, certain issues and questions have been raised. The City Clerk has determined that a few additional amendments are needed to clarify the language of the code and to address the issues that have been identified. Additionally, an amendment is proposed to the Municipal Lobbying Ordinance.

#### RECOMMENDATION

Adopt the proposed amendments to the City's Election Code, Chapter 2, Article 7 of the San Diego Municipal Code.

#### DISCUSSION

A number of amendments are being proposed to several divisions of the City's Elections Code.

Specifically, the proposed amendments, listed by division, are as follows:

##### Division 1 (General Provisions)

Section 27.0120 ("Provision Due to Holidays") has been added to specify that deadlines for filing a petition or report required by the article, and that fall on a weekend or holiday, are extended to the following business day. Similar provisions are provided in state law.

### Division 2 (Nominations)

- a. Section 27.0212 ("Circulation of Nominating Petitions") has been amended to delete the requirement that the circulator of a nominating petition be a registered voter. In 1999 the Supreme Court found this requirement to be unconstitutional for initiative and referendary petitions. This amendment will make the requirements for circulators of a nominating petition the same as it is for circulators of initiative and referendary petitions. In removing the requirement that a circulator be a registered voter, a clarification is required to specify that the circulator must be a U. S. citizen and at least 18 years of age.
- b. Section 27.0220 ("Nominating Fee") has been amended to clarify that the nominating fee for candidates is non-refundable.

### Division 3 (Write-In Candidates)

The amendments in this division mirror those made in Division 2 (Nominations).

### Division 5 (Ballots for Measures)

- a. Section 27.0509 (a) ("Argument Not Accepted without Names") has been amended to make the language consistent with later subsections, and to clarify that a written argument will not be accepted without the signature of the individual submitting it.
- b. Section 27.0510 ("Individuals Signing Arguments on Behalf of Organization"), has been deleted, eliminating the requirement that an individual signing on behalf of an organization submit a letter of authorization from the organization. This change will make the City's requirements for ballot arguments consistent with those of state law.

### Division 6 (Ballots for Candidates)

- a. Section 27.0620 ("Statement of Candidate's Qualifications") has been amended to clarify which individual and organizational names included in the statement must be authorized in writing by the individual or organization.
- b. Section 27.0621 ("Certain Content Prohibited in Statement of Qualifications") has been amended to add a prohibition on references to any City employee. Currently, the section only prohibits references to other candidates and officeholders.
- c. Section 27.0624 ("Candidate's Photograph") has been amended to eliminate the requirement that the photograph submitted by the candidate must be a black and white photograph.

Division 10 (Initiative)

- a. Section 27.1003 ("Notice of Intention, Signed Statement of Reasons, and Affidavit of Publication to be Filed with Clerk") has been amended to delete the requirement that the statement of reasons filed with the City Clerk contain an original signature.
- b. Section 27.1004 ("Initiative Petition Circulators") has been amended to add that the circulator of an initiative petition must be a U.S. Citizen and at least 18 years old. This information is needed in order to clarify the requirements of circulators since they are no longer required to be registered voters.

Division 11 (Referendum)

Section 27.1102 ("Referendary Petition Circulators") has been amended to add that the circulator of a referendary petition must be a U.S. Citizen and at least 18 years old. This information is needed in order to clarify the requirements of circulators since they are no longer required to be registered voters.


Division 40 (Municipal Lobbying)

Section 27.4028 ("Violations, Penalties and Defenses") has been amended to reduce late filing fines to \$10 per day up to a maximum of \$100. This will make the late filing fees for lobbyist reports the same as those for reports filed under the Political Reform Act.

SUMMARY

In summary, the City Clerk proposes these amendments to the elections code, Chapter 2, Article 7 of the San Diego Municipal Code. I look forward to your consideration of these amendments. Should you have any questions or comments, please contact Deputy Director Joyce Lane at 533-4024.

Sincerely,

  
Charles G. Abdelnour  
City Clerk

Attachment

cc: City Attorney  
City Manager

## CHAPTER 2, ARTICLE 7, DIVISION 1 - GENERAL PROVISIONS

### **27.0120 Provision Due to Holidays**

Notwithstanding any other provision of law, if a deadline for filing a petition or report required by this article falls on a holiday or a weekend, that deadline will be extended to the following business day.

## CHAPTER 2, ARTICLE 7, DIVISION 2 - NOMINATIONS

### **27.0208 Form of Nominating Petition Page**

(a) -(e) no change in text

(f) The *circulator's* affidavit of authenticity shall be in substantially the following form:

#### **AFFIDAVIT OF AUTHENTICITY**

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO) ss.

Under penalty of perjury I, (printed name of circulator), ~~say that I am a registered voter of the City of San Diego and~~ declare: That all the signatures on this petition page were made in my presence and were observed by me, and that to the best of my knowledge and belief, such signatures are the genuine signatures of the individuals who signed the petition.

\_\_\_\_\_  
(Circulator's Residence)

\_\_\_\_\_  
(Circulator's Signature)

### **27.0212 Circulation of Nominating Petitions**

It is unlawful for any individual to circulate a nominating *petition* unless he or she is ~~a voter~~ a U. S. citizen and at least 18 years of age.

### **27.0220 Nominating Fee**

The *election* nominating fee shall be two hundred dollars (\$200) for the office of City Councilmember and five hundred dollars (\$500) for the offices of Mayor and City Attorney. The nominating fee is non-refundable and shall be paid when nomination papers are submitted for filing.

## **CHAPTER 2, ARTICLE 7, DIVISION 3 - WRITE-IN CANDIDATES**

### **27.0309 Form of Nominating Petition Page for Write-in Candidates**

(a)-(e) no change in text

(f) The *circulator's* affidavit of authenticity shall be in substantially the following form:

#### **AFFIDAVIT OF AUTHENTICITY**

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO) ss.

Under penalty of perjury I, (printed name of circulator), ~~say that I am a registered voter of the City of San Diego and~~ declare That all the signatures on this petition page were made in my presence and were observed by me, and that to the best of my knowledge and belief, such signatures are the genuine signatures of the individuals who signed the petition.

\_\_\_\_\_  
(Circulator's Residence)

\_\_\_\_\_  
(Circulator's Signature)

### **27.0313 Circulation of Nominating Petitions for Write-in Candidates**

It is unlawful for any individual to circulate a nominating *petition* for a write-in *candidate* unless he or she is ~~a voter~~ a U. S. citizen and at least 18 years of age.

### **27.0321 Nominating Fee for Write-in Candidates**

The *election* nominating fee for a write-in *candidate* shall be two hundred dollars (\$200) for the office of City Councilmember and five hundred dollars (\$500) for the offices of Mayor and City Attorney. The nominating fee is non-refundable and shall be paid when nomination papers are submitted for filing

## **CHAPTER 2, ARTICLE 7, DIVISION 5 - BALLOTS FOR MEASURES**

## **27.0509 Argument Not Accepted without Names**

(a) The City *Clerk* shall not accept a ballot argument for publication in the *voter pamphlet* unless it is accompanied by the name and signature of the individual submitting it, or, if submitted on behalf of an organization, the name of the organization and the name and signature of at least one of its principal officers.

(b) The *voter pamphlet* shall contain a maximum of five signatures with any argument submitted under this division. In case any argument is signed by more than five persons, the signatures of the first five shall be printed.

(c) At least one of the individuals submitting the argument must be a registered voter in the City of San Diego.

## **~~27.0510 Individuals Signing Arguments on Behalf of Organization~~**

~~—— (a) An individual shall sign a ballot argument on behalf of an organization.~~

~~—— (b) A letter authorizing the individual to sign on behalf of the organization shall be filed with the City *Clerk* at the same time the argument is filed.~~

~~—— (c) If no letter authorizing the signature is filed with the argument, the individual's and organization's names shall not be used with the argument for publication in the *voter pamphlet*.~~

~~—— (d) If no letter authorizing the signature is filed with the argument, and if the individual is the only signer of the argument, then the argument shall not be printed in the *voter pamphlet*.~~

## **CHAPTER 2, ARTICLE 7, DIVISION 6 - BALLOTS FOR CANDIDATES**

### **27. 0620 Statement of Candidate's Qualifications**

(a) and (b) No change in text.

(c) The statement may include the names of family members. The name of any other individual ~~Any other names~~ included in the statement must be authorized in writing by the individual. The name of an or organization, whose name is included in the statement as an endorsement, must be authorized in writing by the organization. The consent of an organization shall be signed by an officer or other duly authorized representative of the organization. Such authorization must be filed at the same time as the statement of qualifications or the name will not be permitted in the statement.

(d) The statement shall not exceed 200 words in length. Printed material on the statement shall be of uniform type size. Boldface type or underscoring may be used for emphasis. The statement shall be filed in the Office of the City Clerk at the following times:

(1) When nomination papers are returned for filing by *candidates* whose names will appear on the ballot for a *District or City-wide Primary Election*, and

(2) Ninety-eight calendar days before the *District or City-wide General Election* for *candidates* whose names will appear on the ballot for a *District or City-wide General Election*.

(3) Three business days following the primary *election* if a run-off *election* is required pursuant to Section 27.0906 of this article.

#### **27.0621 Certain Content Prohibited in Statement of Qualifications**

(a) The statement of qualifications shall not refer, either directly by name, or indirectly by title, description or other allusion, to any other *candidate* or officeholder or to any other *candidate's* or officeholder's qualifications, character or activities.

(b) The statement of qualifications shall not refer, either directly by name, or indirectly by title, description or other allusion, to any City employee or to a City employee's character or activities.

(c) (b) The statement of qualifications shall not include the party affiliation of the *candidate* or membership or activity in partisan political organizations.

(d) (e) The statement of qualifications shall not contain language which is prohibited by law to be sent through the mail.

(e) (d) The statement of qualifications shall not contain matter that is unrelated to the *candidate*.

(f) (e) The statement of qualifications shall not contain obscene, vulgar, profane, scandalous, libelous or defamatory matter or language which in any way incites, counsels, promotes or advocates hatred, abuse, violence or hostility toward any individual or group of individuals by reason of race, color, religion or manner of worship.

#### **27.0624 Candidate's Photograph**

If the *candidate* desires to have his or her photograph appear with the statement of qualifications, the *candidate* shall submit a ~~black and white~~ glossy photographic print, preferably 8 by 10 inches in size, ~~but~~ or no smaller than 5 by 7 inches in size. Only the head and shoulders portion of the photograph shall be reproduced on the statement; other

images appearing in the photograph submitted shall be excluded by cropping. All photographs in the *voter pamphlet* containing *candidates'* statements of qualifications shall be as nearly uniform in size as possible, except for size reductions necessitated by a *candidate's* format for his or her statement of qualifications.

## **CHAPTER 2, ARTICLE 7, DIVISION 10 - INITIATIVE**

### **27.1003 Notice of Intention, Signed Statement of Reasons, and Affidavit of Publication to be Filed with Clerk**

(a) Within ten calendar days after publication of the notice of intention to circulate an initiative *petition* for signatures, the *proponent* shall file:

- (1) a copy of the notice as published;
- (2) the statement of reasons prepared in accordance with Section 27.1010 and the original signature of the individual initiating the proposed legislative act or, if the *proponent* is an organization, the original signatures of two officers of the organization; and
- (3) an affidavit of publication. The affidavit of publication shall be in a form satisfactory for the City *Clerk's* verification of publication.

(b) All documents specified in Section 27.1003(a) shall be filed in the Office of the City *Clerk*.

### **27.1004 Initiative Petition Circulators**

An initiative *petition* may be circulated for signatures by a paid signature gatherer or by a volunteer. A circulator must be a U. S. citizen and at least 18 years old.

## **CHAPTER 2, ARTICLE 7, DIVISION 11 - REFERENDUM**

### **27.1102 Referendary Petition Circulators**

A referendary *petition* may be circulated for signatures by a paid signature gatherer or by a volunteer. A circulator must be a U. S. citizen and at least 18 years old.



## **CHAPTER 2. ARTICLE 7, DIVISION 40 — MUNICIPAL LOBBYING**

### **SEC. 27.4028 Violations, Penalties and Defenses**

(a) Violations of this division may be prosecuted as misdemeanors subject to the fines and custody provided in San Diego Municipal Code section 12.0201. The *City* may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code section 12.0202 or pursue any administrative remedy set forth in Chapter I of this Code.

(b) In addition to any other penalty or remedy available, if any individual fails to file any registration form or quarterly disclosure report required by this division after any deadline imposed by this division, that individual shall be liable to the *City* of San Diego in the amount of ~~twenty-five ten~~ dollars ~~(\$25)~~ per *Day* after the deadline until the report is filed, up to a maximum amount of ~~\$500~~ \$100.

(c) Provisions of this division need not be enforced by the *City* Clerk if it is determined that the late filing was not willful and that enforcement of the penalty would not further the purposes of this division.

(d) Provisions of this division shall not be waived if a registration form or quarterly disclosure report, or an amendment to correct any deficiency in a registration form or quarterly disclosure report, is not filed by the deadline imposed in the notification from the *City* Clerk of the filing requirement.

(e) Any limitation of time prescribed by law within which prosecution for a violation of any part of this division must be commenced shall not begin to run until the *City's* discovery of the violation.